

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Wayne L. Simmer & Toni Friday,
Appellants,

v.

Dallas County Board of Review,
Appellee.

ORDER

Docket No. 14-25-0343
Parcel No. 12-23-176-006

On December 8, 2014, the above-captioned appeal came on for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Wayne Simmer and Toni Friday were self-represented and requested the appeal be considered without a hearing. Dallas County Attorney Wayne Reisetter is counsel for the Board of Review. The Appeal Board having reviewed the record and being fully advised finds:

Findings of Fact

Wayne Simmer and Toni Friday are the owners of a residentially classified property located at 4232 Walnut Peak Lane, Clive, Iowa. It is a one-story, bi-attached townhome with 2115 square feet of living area and a full, walkout basement with 1800 square feet of living-quarter finish. It has a three-car attached garage, a two open porches and a patio.

Simmer and Friday protested to the Board of Review regarding the 2014 assessment. Iowa Code § 441.37(1) (2014). The 2014 assessment was \$433,690, allocated as \$50,000 in land value and \$383,690 in improvement value. They claimed that there was an error in the assessment under section 441.37(1)(a)(1)(d). The error claim essentially asserts the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b). They asserted the correct value is \$375,000. The

Board of Review agreed, in part, and reduced the assessment to \$413,490, allocated as \$50,000 in land value and \$363,490 in improvement value.

Simmer and Friday then appealed to this Board.

Simmer and Friday purchased the subject property from the Jo Lynne Meskimen Revocable Trust on November 25, 2013, for \$375,000. They submitted a copy of the HUD Statement to the Board of Review, which confirms the purchase price. They did not submit any new evidence of the market value to this Board, such as an appraisal, adjusted comparable sales, or a cost analysis.

The Board of Review submitted a one-page written argument from County Assessor Steve Helm. (Exhibit A). Helm provided a list of ten properties, including the subject, that sold between April 2012 and September 2014. According to Helm, the properties listed are the only shared wall townhome sales in Urbandale and Clive in the Dallas and Polk County area with sale prices exceeding \$325,000. Helm also included two attached townhome listings located in Polk County. None of the sales were adjusted for differences and we give them no consideration.

Helm also provided a listing history of the subject property that was obtained from Zillow. It indicates the subject was listed for \$449,900 before being reduced to \$429,900. Further, Helm noted that in addition to being a sale from a trust, the sale was a cash transaction without financing. For these reasons, he believes the sale price does not reflect market value.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. §441.21(1)(b). Conversely, sales of property in abnormal transactions not reflecting market value shall not be taken into account. *Id.*

In an appeal alleging the property is assessed for more than the value authorized by law under section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Simmer and Friday assert the fair market value of the subject property should be the November 2013 purchase price of \$375,000. While the purchase price of the property may be an indication of market value, we do not find it alone is sufficient to conclusively determine the fair market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). In addition, the purchase was an all-cash transaction from a trust, which we believe may have resulted in a below-market sales price. They did not submit any other evidence to validate the purchase price is reflective of the property's fair market value, such as an appraisal, adjusted comparable sales, or a cost analysis. Therefore, they failed to provide sufficient evidence to support their claim.

THE APPEAL BOARD ORDERS the 2014 assessment of Wayne Simmer and Toni Friday's property located at 4232 Walnut Peak Lane, Clive, Iowa, set by the Dallas County Board of Review, is affirmed.

Dated this 6th day of January, 2015.



Karen Oberman, Board Member



Jacqueline Rypma, Board Member

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